



CITY OF MORGAN HILL

**CITY COUNCIL
MORGAN HILL REDEVELOPMENT AGENCY**

COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037-4128

COUNCIL MEMBERS

Dennis Kennedy, Mayor
Greg Sellers, Mayor Pro Tempore
Hedy L. Chang, Council Member
Steve Tate, Council Member
Larry Carr, Council Member

REDEVELOPMENT AGENCY

Dennis Kennedy, Chair
Larry Carr, Vice-Chair
Hedy L. Chang, Agency Member
Steve Tate, Agency Member
Greg Sellers, Agency Member

WEDNESDAY, SEPTEMBER 19, 2001

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL & REGULAR MEETING

and

REDEVELOPMENT AGENCY SPECIAL MEETING

*A Special Meeting Is Called at 5:30 P.M. for the Purpose
of Conducting Closed Sessions.*

Dennis Kennedy, Mayor/Chairperson

5:30 P.M.

CALL TO ORDER

(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2
(City Clerk/Agency Secretary Torrez)

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - POTENTIAL AND EXISTING LITIGATION:
CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority: Government Code 54956.8 & 54956.9(a) & (c) (1 potential case)
Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Cochran Road (St. Louise Hospital property)
City Negotiators: Agency Members; Executive Director; Agency Counsel; F. Gale Conner, special counsel; Rutan & Tucker, special counsel
Case Name: San Jose Christian College v. City of Morgan Hill
Case Number: Santa Clara County Superior, No. CV 799179
Closed Session Topic: Potential Existing Litigation/Real Estate Negotiations

2.

CONFERENCE WITH LEGAL COUNSEL - REAL PROPERTY NEGOTIATOR

Legal Authority: Government Code 54956.8
Real Property Involved: 17.58 acre parcels located on the east side of Condit Road, bound by Condit Road, Tennant Avenue, Barrett Avenue and Murphy Avenue (APN 817-13-017)
Negotiating Parties:
 For City/Agency: City Manager/Executive Director; City Attorney/Agency Counsel; Director of Business Assistance & Housing Services
 For Property Owners: Virginia Lomanto Trustee
Closed Session Topic: Acquisition of Real Property

3.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure to Litigation/Initiation of Litigation
Authority: Government Code Section 54956.9(b) & (c)
Two (2) Cases

4.

CONFERENCE WITH LEGAL COUNSEL - REAL PROPERTY NEGOTIATOR

Legal Authority: Government Code 54956.8
Real Property Involved: 8.14 acres at NW corner of Diana Ave and Butterfield Blvd (APN 726-12-006)
Negotiating Parties:
 For City/Agency: City Manager/Executive Director; City Attorney/Agency Counsel; Director of Business Assistance & Housing Services
 For Property Owners: Kontra Becki Associates I
Closed Session Topic: Acquisition of Real Property

5.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code Section 54956.9(a)
Name of Case: City of San Jose v. Morgan Hill Unified School District, City of Morgan Hill
Case Number: Superior Court, County of Santa Clara CV794073

6.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Legal Authority: Government Code 54956.9(a)
Title: Interstate Trust Deed Services, Inc. v. City of Morgan Hill
Case No.: Orange County Superior Court, 01CC05281

7.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Legal Authority: Government Code 54956.9(a)
Title: Adriana Juarez, et al. v. City of Morgan Hill
Case No.: Santa Clara County Superior Court, CV 793577

8.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Legal Authority: Government Code 54956.9(a)
Case Name: San Jose Christian College v. City of Morgan Hill, Dennis Kennedy, Greg Sellers, Larry Carr, Steve Tate and Hedy L. Chang
Case Number: United States District Court, Northern District of California, No. CO1-20847
Closed Session Topic: Existing Litigation

9.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure to Litigation
Authority: Government Code Section 54956.9(b)
One (1) Case

10.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Legal Authority: Government Code 54956.9(a)
Case Name: Juarez v. City of Morgan Hill
Case Number: Santa Clara County Superior Court
Case Number: CV 793577
Closed Session Topic: Settlement Authority

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

INTRODUCTIONS

Mary Kaye Fisher, Human Resources Director
Charnell Mumford, Human Resources Assistant
David Gittleson, Associate Engineer

RECOGNITIONS

Community-wide Recycling Achievement

Citizen's Advisory Committee: Tom Berghoff, Jerry Denny, Janet Figueroa, Sharon Purser

Santa Clara County Green Business Program Recognition
Eco-Care Professional Housecleaning

CITY COUNCIL REPORT

Council Member Tate

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.
(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME THE
ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND PRESENT
IT TO THE CITY CLERK.**
(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

CONSENT CALENDAR:

The Consent Calendar, Agenda Items #1 through #10 ; Agenda Items #11 through #14; and
Agenda Item #14 may be acted upon with one motion, a second and the vote from each
respective agency. The Consent Calendar items are of a routine or generally uncontested
nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council
Rules of Conduct, any member of the Council or public may request to have an item pulled
from the Consent Calendar to be acted upon individually.

City Council Action

Time

Estimate

Consent Calendar: 1 - 10 Minutes

Page

- | | |
|----|---|
| 1) | <u>AUGUST 2001 FINANCE AND INVESTMENT REPORT</u> 1
<u>Recommended Action(s): Accept and File</u> Report. |
| 2) | <u>APPROVAL OF RIGHT-OF-WAY PURCHASE AGREEMENTS FOR BUTTERFIELD EXTENSION,
PH IV PROJECT (APN: 817-30-049 and 817-57-003)</u> 29 |

Recommended Action(s): Authorize the City Manager to Execute Purchase Agreements with the Owners of APNs 817-30-049 and 817-57-003 for Total Compensation of \$586,988 Plus Escrow and Closing Costs for the Acquisition of These Properties.

3) **VACATION OF A PORTION OF SAN RAMON DRIVE** 33

Recommended Action(s):

1. Adopt Resolution No. 5526 Thereby Vacating a Public Right-of-way Adjacent to APN 817-60-001, at the Corner of San Ramon Drive and San Pedro Avenue, and
2. Direct The City Clerk to File a Certified Copy of Resolution No. 5526 in the Office of the Recorder of Santa Clara County.

4) **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9085, RIO SERENO SUBDIVISION** 39

Recommended Action(s):

1. Adopt Resolution No. 5527 Accepting the Subdivision Improvements Included in Tract 9085, Commonly Known as Rio Sereno, and
2. Direct The City Clerk to File a Notice of Completion with the County Recorder's Office.

5) **RESOLUTIONS APPROVING THE CITY'S PARTICIPATION IN THE PER CAPITA GRANT PROGRAM AND THE ROBERTI-Z'BERG - HARRIS (RZH) URBAN OPEN SPACE AND RECREATION GRANT PROGRAM** 45

Recommended Action(s):

1. Adopt Resolution No. 5528 Approving the City's Participation in the Per Capita Grant Program, and
2. Adopt Resolution No. 5529 Approving the City's Participation in the Roberti-Z' Berg - Harris (RZH) Urban Open Space and Recreation Grant Program.

6) **APPROVAL OF NEGATIVE DECLARATION AND EASEMENT AGREEMENT FOR BURNETT WATERLINE** 51

Recommended Action(s):

1. Approve Mitigated Negative Declaration, and
2. Approve Agreement with the County of Santa Clara to Purchase Waterline Easement Across County Park Land and Authorize the City Manager to Execute Agreement.

7) **APPRAISAL OF FORMER SAINT LOUISE HOSPITAL PROPERTY** 115

Recommended Action(s):

1. Appropriate \$37,000 from the General Fund Reserves, and
2. Approve a Contract with Hulberg & Associates, Inc. for Appraisal of the former Saint Louise Property.

8) **APPOINTMENT TO THE HOUSING ELEMENT ADVISORY COMMITTEE** 127

Recommended Action(s): Authorize the Mayor to Appoint the Lising of Individuals to Serve as Members of the Housing Element Advisory Committee.

9) **GENERAL PLAN AMENDMENT AND URBAN SERVICE AREA AMENDMENT APPLICATIONS** 131

Recommended Action(s): Reschedule Hearings on the 2001 Urban Service Area Applications and General Plan Amendment Applications to December 5, 2001.

10) **APPROVAL OF SPECIAL CITY COUNCIL MEETING MINUTES OF AUGUST 29, 2001** 133

City Council and Redevelopment Agency Action

	Time Estimate	Page
Consent Calendar: 1 - 10 Minutes		
11)	<u>APPROVAL OF SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF AUGUST 29, 2001</u>	135
12)	<u>APPROVAL OF JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF SEPTEMBER 5, 2001</u>	137
13)	<u>APPROVAL OF JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF SEPTEMBER 5, 2001</u>	139

Redevelopment Agency Action

	Time Estimate	Page
Consent Calendar: 1 - 10 Minutes		
14)	<u>LEASE/PURCHASE OF PROPERTY AT 1250 BARRETT AVENUE</u>	165
	Recommended Action(s):	
1.	Authorize the Executive Director to Negotiate, Prepare, and Execute a 15-year Ground Lease and Option to Purchase Agreement and any other Related Documents with the Owner of 8.8 Acres at 1250 Barrett Avenue (APN: 817-13-017, Lot 28), and	
2.	Authorize the Executive Director to Do Everything Necessary and Appropriate to Make Payments per the Ground Lease Agreement, Not to Exceed \$1.86 Million Plus Closing/escrow Costs and Lease Payments which Allow the Owner a 5% Return on the Purchase Price over the Life of the Ground Lease and Closing/escrow Costs.	

City Council Action

PUBLIC HEARINGS:

	Time Estimate	Page
15)	5 minutes	
	<u>ZONING AMENDMENT APPLICATION ZA-01-02: CAMPOLI - COX</u>	169
	Recommended Action: Request staff presentation.	
	Public Hearing opened.	
	Please limit your remarks to 3 minutes. Public Hearing closed.	
	Council discussion.	
	Action- <u>Motion to Waive</u> the Reading in Full of Zoning Amendment Ordinance No. 1533 N.S.;	
	<u>Motion to Introduce</u> Ordinance 1533 N.S. by Title Only.	

16)	15 minutes	<u>ZONING AMENDMENT APPLICATION ZA-01-04: MONTEREY ROAD - CHRISTENSEN</u>	183
		Recommended Action: Request staff presentation. Public Hearing opened. Please limit your remarks to 3 minutes. Public Hearing closed. Council discussion. Action- <u>Motion to Waive</u> the Reading in Full of Zoning Amendment Ordinance No. 1532, N.S.; <u>Motion to Introduce</u> Ordinance 1532, N.S. by Title Only.	
17)	10 minutes	<u>RESOLUTION ESTABLISHING FEES FOR MASSAGE ESTABLISHMENT, MANAGING EMPLOYEE AND MASSAGE PRACTITIONER PERMITS</u>	197
		Recommended Action: Request staff presentation. Public Hearing opened. Please limit your remarks to 3 minutes. Public Hearing closed. Council discussion. Action - <u>Motion to Adopt</u> Resolution No. 5522 Establishing Fees for Massage Establishment, Managing Employee and Massage Practitioner Permits.	
18)	45 minutes	<u>ZONING AMENDMENT, ZA-01-03: CITY OF MORGAN HILL - ZONING TEXT AMENDMENT</u>	201
		<i>Continued from August 15, 2001</i> Recommended Action: Request staff presentation. Public Hearing opened. Please limit your remarks to 3 minutes. Public Hearing closed. Council discussion. Action- <u>Motion to Waive</u> the Reading in Full of Zoning Amendment Ordinance No. 1515, N.S.; <u>Motion to Introduce</u> Ordinance 1515, N.S. by Title Only.	

OTHER BUSINESS:

	Time Estimate		Page
19)	20 minutes	<u>ADOPTION OF 2001-02 WORKPLAN</u>	229
		Recommended Action(s): <u>Approve</u> 2001-02 Workplan.	
20)	10 minutes	<u>STATUS REPORT FROM SANTA CLARA VALLEY WATER DISTRICT ON RESOLVING SAN PEDRO PERCOLATION POND HIGH GROUNDWATER PROBLEM</u>	289
		Recommended Action(s): <u>Receive</u> Update Provided by Santa Clara Valley Water District Regarding the Requested Time Frame.	
21)	5 minutes	<u>DOWNTOWN DESIGN PLAN UPDATE TASK FORCE</u>	291
		Recommended Action(s): 1. <u>Motion</u> to Approve Recommended Make Up of Task Force for the Downtown Design Plan Update,	

2. **Authorize** the City Clerk to Advertise and Recruit Applicants for the Task Force, and
3. **Appoint** a City Council Member to Serve as the Chairperson for the Task Force.

SECOND READING OF ORDINANCE: Full Reading Waived By Majority Vote.

(Government Code Section 36934)

Action -- Adopt Ordinance by roll call vote.

22)	1 minute	<u>ADOPT ORDINANCE NO. 1528 NEW SERIES</u>	295
		An Ordinance of The City Council of The City of Morgan Hill Enacting Chapter 5.32 (Massage Establishments) of Title 5 (Business Taxes, Licenses and Regulations) of the Municipal Code of the City of Morgan Hill Regarding Regulation of Massage Establishments and Practitioners.	
23)	2 minutes	<u>ADOPT ORDINANCE NO. 1529 NEW SERIES AND ORDINANCE 1530, NEW SERIES</u>	317
		<u>ORDINANCE NO. 1529, NEW SERIES</u> – An Ordinance of The City Council of The City of Morgan Hill Approving a Zoning Amendment to Establish a Precise Development Plan for a 15-unit Single-family Project on an 8.87-acre Site Located Along Malaguerra Avenue, North of Sullivan Court (APNs 728-35-016 & 017), and	
		<u>ORDINANCE NO. 1530, NEW SERIES</u> – An Ordinance of The City Council of The City of Morgan Hill Approving A Development Agreement for a 15-Unit Single-family Project on an 8.87-acre Site Located Along Malaguerra Avenue, North of Sullivan Court (APNs 728-35-016 & 017).	
24)	1 minute	<u>ADOPT ORDINANCE NO. 1531 NEW SERIES</u>	343
		An Ordinance of The City Council of The City of Morgan Hill Amending a Planned Unit Development, Which Includes the Morgan Hill Plaza and Multifamily Residential Uses, at the Intersection of Monterey Road and Dunne Avenue (APN 767-09-018)	

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT